

## HR. 2829 and the Endangered Species Act: Side-by-Side Comparison

H.R. 2829 Provisions	Current Law Under the ESA
<b>Sound Science and ESA Actions</b>	
<p>Requires the Secretary to set standards for the scientific and commercial data that is used to take actions under the ESA.</p> <p>Requires the Secretary to give greater weight to scientific or commercial data that is empirical or has been field-tested or peer-reviewed.</p>	<p>The ESA requires “the best scientific and commercial data available” for listings and other actions. However, this term is not defined, and there are no objective standards to ensure a uniformly high quality of scientific data.</p>
<b>Sound Science and the Listing Process</b>	
<p>Sets minimum standards for the scientific and commercial data used in listing determinations.</p> <p>Listing actions <u>must</u> be supported by field data on the species.</p> <p>The listing agency <u>must</u> accept data on the species collected by landowners.</p>	<p>The Secretary is given broad discretion in determining what listings, if any, will take place, with little to no constraints as to what data may or may not be used.</p>
<b>Sound Science and Recovery Planning</b>	
<p>Agencies preparing recovery plans are <u>required</u> to identify, solicit, and accept scientific or commercial information that would assist in preparing a recovery plan.</p>	<p>The ESA gives the Secretary broad discretion in developing recovery plans. Public input is limited to an opportunity to comment on a draft recovery plan.</p>
<b>Sound Science and Peer Review</b>	
<p>Every proposed listing, delisting, recovery plan, or consultation under the ESA would be reviewed by a peer review panel of three non-biased scientists.</p>	<p>The ESA does not require peer review of scientific information, nor does it establish any structure for a peer review process.</p>

Sound Science and the Consultation Process	
<p>Requires the Secretary to solicit and consider information provided by the State.</p> <p>Allows an applicant to: (1) prior to the release of a draft biological opinion, submit and “discuss” with the Service and action agency information about the proposed action and possible reasonable and prudent alternatives; (2) obtain information used to develop the biological opinion and reasonable and prudent alternatives; and (3) provide comments prior to publication of the final biological opinion.</p> <p>The service must include the applicant’s suggestions or explain why such suggestions were rejected.</p> <p>Comments and other information submitted shall be available to the public.</p>	<p>The ESA requires the Secretary to cooperate with the States “to the maximum extent possible,” but largely leaves the implementation of such cooperation to the discretion of the Secretary.</p> <p>The Service is required to consult with Federal agencies to ensure that endangered/threatened species and critical habitat are not adversely affected. The ESA requires the Service generally to cooperate with an applicant for a federal permit during consultation, but the applicant is not provided a formal role in the process.</p>